IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

Date of Order : 4.1.2005

S.B. CIVIL WRIT PETITION NO.4951/2002

State of Rajasthan vs. Shanker Lal & ors.

HON'BLE MR. PRAKASH TATIA, J.

Mr. L.R. Upadhyay, for the petitioner State.

Mr. M.S. Singhvi) for the respondents.
Mr. A. Swami)

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order of Board of Revenue dated 5.3.2002 by which the Board of Revenue allowed the appeal filed by the respondents and set aside the order of Additional Collector dated 15.5.2000.

Brief facts of the case are that the agriculture land of the respondents was subjected to proceedings under the Old Ceiling Law as applicable at the relevant time provided under the provisions of Chapter III B of the Rajasthan Tenancy Act. The proceedings were dropped vide order dated 25.8.1972 as no excess land was not found.

Chapter III B was repealed and a new ceiling law came into force namely, the Rajasthan Imposition of Ceiling on Agricultural Holding Act, 1973 (for short the “Act of 1973”). Under the new Act, the respondents' land was again

assessed for the purpose of ceiling. An order was passed under the Act of 1973 on 15.10.1975. That order was challenged by preferring two appeals. The appeal of Shanker Lal was partly allowed vide order dated 12.2.1976. The ultimate order was complied with on 24.2.1977. However, the other appeal preferred was dismissed by the appellate court. The State Government while exercising powers under Section 15(2) of the Act of 1973 passed an order to reopen the ceiling case of the respondents. The authority following the decision of this Court delivered in the case of Pari Devi vs. State reported in 1984 R.L.W. Page 320 dropped the proceedings holding that the proceedings cannot proceed as the case of the petitioner has already been decided under the new Act of 1973.

The authority under the impression that since the judgment of this Court delivered in Pari Devi's case (supra) has been stayed by the Hon'ble Supreme Court, therefore, the matter can be reviewed suo motu, and consequently, the Authorised Officer passed an order on 15.5.2000 reviewing its earlier order and decided to proceed with the ceiling case of the respondents. The said order was challenged by the respondents by filing appeal before the Board of Revenue which was allowed vide judgment dated 5.3.2002. The Board of Revenue held that the Authorised Officer has committed illegality in reviewing the order of dropping the proceedings. The State is, therefore, aggrieved against this order of Board of Revenue and has filed the present writ petition.

According to the learned counsel for the petitioner, the operation and effect of Pari Devi's case (supra) was stayed by the Supreme Court, therefore, the decision of the respondents' case given on the basis of Pari Devi's case was rightly reviewed by the Authorised Officer.

It is clear from the facts as recorded in the order dated 15.5.2000 passed by the Additional Collector, Hanumangarh (Annex.2) that the ceiling authority in pursuance of some directions issued by the State Government on 22.7.1986 reviewed its earlier order dated 19.4.1985 which was beyond the scope of Section 23A of the Act of 1973. The reason given for the review of the order dated 19.4.1985 is also not legally sustainable in view of the fact that if the order of the authority dated 19.4.1985 was illegal, then the State should have challenged the order dated 19.4.1985 in time which has not been done. Section 23A also permits review of the order on the very limited grounds. Mere filing of the appeal against the decision of the High Court by the State in another case is also not a ground for review.

In view of the above discussion, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya